

***UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS***

USDC Docket Number : 1:05-cv-10858 GAO

Tony B. Gaskins

v.

UMass Correctional Heath Services

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
37,38,39,40,41,42,43,44,45,46,47,48,49,50,51,52,53,54,55,56,56,57

and contained in I Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 10/22/2007 .

In testimony whereof, I hereunto set my hand and affix the seal of this Court on November 29, 2007.

Sarah A Thornton, Clerk of Court

By: Francis Castilla
Deputy Clerk

Receipt of the documents in the above entitled
case is hereby acknowledged this date: _____.

Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

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DISTRICT OF MASSACHUSETTS***

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**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-10858-GAO**

Gaskins et al v. Umass Correctional Health Services et. al.
Assigned to: Judge George A. O'Toole, Jr
Referred to: Magistrate Judge Marianne B. Bowler
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/25/2005
Date Terminated: 09/28/2006
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Petitioner

Tony B. Gaskins

represented by **Tony B. Gaskins**
W52145
MCI Cedar Junction
P.O. Box 100
Walpole, MA 02071
PRO SE

V.

Defendant

UMass Correctional Health Services
TERMINATED: 09/02/2005

represented by **James A. Bello**
Morrison, Mahoney LLP
250 Summer Street
Boston, MA 02210
617-737-8803
Fax: 617-342-4968
Email: jbello@morrisonmahoney.com
ATTORNEY TO BE NOTICED

Defendant

RN Susan J Martin
Health Services Director

represented by **Jody Adams Brenner**
Department of Correction
70 Franklin Street
Suite 600
Boston, MA 02110
617-727-3300
Fax: 617-727-7403
Email: jabrenner@doc.state.ma.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

David Nolan
Superintendent

represented by **Jody Adams Brenner**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Lisa Mitchell
Deputy Superintendent

represented by **Jody Adams Brenner**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U Mass Correctional Health

represented by **James A. Bello**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Dr. Carl Singletary

represented by **James A. Bello**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Stanley Galas

represented by **James A. Bello**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/25/2005	<u>1</u>	MOTION for Leave to Proceed in forma pauperis by Tony B. Gaskins.(Jenness, Susan) (Entered: 04/28/2005)
04/25/2005	<u>2</u>	MOTION Serve Defendants by Regular Mail by Tony B. Gaskins.(Jenness, Susan) (Entered: 04/28/2005)
04/25/2005	<u>3</u>	MOTION to Appoint Counsel by Tony B. Gaskins.(Jenness, Susan) (Entered: 04/28/2005)
04/25/2005	<u>4</u>	COMPLAINT against UMass Correctional Health Services, Susan J Martin, David Nolan, Lisa Mitchell Filing fee: \$ 0.00, receipt number 0.00, filed by Tony B. Gaskins. (Attachments: # <u>1</u> Civil Cover Sheet)(Jenness, Susan) (Entered: 04/28/2005)
04/25/2005	<u>5</u>	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Jenness, Susan) (Entered: 04/28/2005)
05/09/2005	<u>5</u>	Judge George A. O'Toole Jr.: MEMORANDUM AND ORDER entered re: <u>1</u> Motion for Leave to Proceed in forma pauperis (#1), Motion to serve defendants by mail (#2), and Motion to Appoint Counsel (#3): 1. Plaintiff's Motion to Proceed in forma pauperis is allowed and the filing fee is assessed pursuant to 28 U.S.C. section 1915(b); 2. Plaintiff's Motion for Appointment of Counsel (#3) is denied without prejudice; 3. Plaintiff's Motion for Service by Regular Mail (#2) is denied as moot; and 4. Plaintiff shall, within forty-two (42) days, show cause in writing why the claims against Defendant U Mass. Correctional Health Services should not be dismissed. (Greenberg, Rebecca) (Entered: 05/11/2005)
05/09/2005	<u>6</u>	Judge George A. O'Toole Jr.: ORDER on Application to Proceed Without

		Prepayment of Fees entered. An initial partial filing fee of \$21.32 is assessed, with the balance of \$228.68 to be assessed in accordance with 28 U.S.C. section 1915(b)(2). It is Further Ordered that the Clerk issue summonses and the United States Marshal serve a copy of the complaint, summons, and this order as directed by the plaintiff, with all costs of service to be advanced by the United States, only as to defendants Susan J. Martin, David Nolan, and Lisa Mitchell. (Greenberg, Rebecca) (Entered: 05/11/2005)
05/11/2005	<u>7</u>	NOTICE: re payment of fee (prisoner filer) issued to the Treasurer at MCI Cedar Junction (Greenberg, Rebecca) (Entered: 05/11/2005)
05/24/2005	<u>8</u>	MOTION to Show Cause why claim should not be dismissed against Umass Correctional Health Services by Tony B. Gaskins.(Edge, Eugenia) (Entered: 05/25/2005)
06/06/2005	<u>9</u>	MOTION to Amend 4 Complaint by Tony B. Gaskins. c/s (Attachments: # <u>1</u> proposed amended complaint)(Edge, Eugenia) (Entered: 06/08/2005)
06/17/2005	<u>10</u>	US Marshal Process Receipt and Return for Civil Action. Lisa Mitchell, Deputy Superintendent served Delivered on June 8, 2005 (Edge, Eugenia) (Entered: 06/20/2005)
06/17/2005	<u>11</u>	US Marshal Process Receipt and Return for Civil Action. David Nolan, Superintendent served Delivered on June 8, 2005 (Edge, Eugenia) (Entered: 06/20/2005)
06/28/2005	<u>12</u>	NOTICE of Appearance by Jody T. Adams on behalf of Susan J Martin, David Nolan, Lisa Mitchell (Adams, Jody) (Entered: 06/28/2005)
06/28/2005	<u>13</u>	MOTION for Extension of Time to July 28, 2005 to File Response/Reply as to 4 Complaint by Susan J Martin, David Nolan, Lisa Mitchell.(Adams, Jody) (Entered: 06/28/2005)
07/07/2005	<u>14</u>	Judge George A. O'Toole Jr.: Electronic ORDER entered granting <u>13</u> Motion for Extension of Time to File Response/Reply re <u>13</u> MOTION for Extension of Time to July 28, 2005 to File Response/Reply as to 4 Complaint Responses due by 7/28/2005 (Lyness, Paul) (Entered: 07/07/2005)
07/11/2005	<u>15</u>	US Marshal Process Receipt and Return for Civil Action. Susan T. Martin served Delivered on July 6, 2005 (Edge, Eugenia) (Entered: 07/13/2005)
07/27/2005	<u>16</u>	MOTION to Dismiss <i>and/or Motion for Summary Judgment</i> by Susan J Martin, David Nolan, Lisa Mitchell.(Adams, Jody) (Entered: 07/27/2005)
07/27/2005	<u>17</u>	MEMORANDUM in Support re <u>15</u> MOTION to Dismiss <i>and/or Motion for Summary Judgment</i> filed by Susan J Martin, David Nolan, Lisa Mitchell. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 1, part 2# <u>3</u> Exhibit 1, part 3# <u>4</u> Exhibit 2)(Adams, Jody) (Entered: 07/27/2005)
07/27/2005	<u>18</u>	MOTION to Stay <i>All Further Proceedings Pending the Outcome of Defendants' Motion to Dismiss and/or Motion for Summary Judgment</i> by Susan J Martin, David Nolan, Lisa Mitchell.(Adams, Jody) (Entered: 07/27/2005)
07/27/2005	<u>19</u>	MOTION Waive Local Rule 7.1(A)(2) by Susan J Martin, David Nolan, Lisa Mitchell.(Adams, Jody) (Entered: 07/27/2005)
08/05/2005	<u>20</u>	MOTION to Stay and to Permit Discovery re <u>15</u> MOTION to Dismiss <i>and/or</i>

		<i>Motion for Summary Judgment</i> by Tony B. Gaskins. c/s (Attachments: # 1 Attached documents)(Edge, Eugenia) (Entered: 08/10/2005)
08/15/2005	<u>20</u>	Opposition re <u>19</u> MOTION to Stay re <u>15</u> MOTION to Dismiss <i>and/or Motion for Summary Judgment</i> filed by Susan J Martin, David Nolan, Lisa Mitchell. (Adams, Jody) (Entered: 08/15/2005)
08/15/2005	<u>21</u>	MOTION to Appoint Counsel by Tony B. Gaskins. (Attachments: # 1 Affidavit of Tony Gaskins)(Edge, Eugenia) (Entered: 08/18/2005)
09/01/2005	<u>22</u>	Judge George A. O'Toole Jr.: MEMORANDUM AND ORDER entered: Plaintiff's Motion to Appointment of Counsel (#21) is Denied; Plaintiff's Motion to Amend Complaint (#9) to add additional individual defendants is Allowed; the clerk shall modify the docket accordingly; Summonses shall issue with respect to Dr. Carl Singletary and Nurse Practitioner Stanley Galas as defendants, with costs of service to be paid by the United States Marshal's Office; and the claims against Defendant University of Mass. Correctional Health Care Services are dismissed. (PSSA1) (Entered: 09/02/2005)
09/02/2005		Summons Issued as to Carl Singletary, Stanley Galas. (PSSA1) (Entered: 09/02/2005)
09/15/2005	<u>23</u>	US Marshal Process Receipt and Return for civil complaint. Stanley Galas, Nurse Practioner served Delivered on September 9, 2005 (Edge, Eugenia) (Entered: 09/19/2005)
09/15/2005	<u>24</u>	US Marshal Process Receipt and Return for civil complaint. Dr. Carl Singletary served Delivered on September 9, 2005 (Edge, Eugenia) (Entered: 09/19/2005)
09/20/2005	<u>25</u>	MOTION for Pre-trial Conference by Tony B. Gaskins. c/s(Edge, Eugenia) (Entered: 09/21/2005)
09/22/2005	<u>26</u>	<i>Defendants ANSWER to Complaint Plaintiff's Amended Verified Civil Complaint</i> by U Mass Correctional Health.(Bello, James) (Entered: 09/22/2005)
09/22/2005	<u>27</u>	<i>Defendant's ANSWER to Complaint Plaintiff's Amended Verified Complaint</i> by Stanley Galas.(Bello, James) (Entered: 09/22/2005)
09/22/2005	<u>28</u>	<i>Defendant's ANSWER to Complaint Plaintiff's Amended Verified Civil Complaint</i> by Carl Singletary.(Bello, James) (Entered: 09/22/2005)
09/26/2005	<u>29</u>	Judge George A. O'Toole Jr.: ORDER entered. REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: for full pretrial case management, including all dispositive motions and a Report and Recommendation on all dispositive motions Copy of order mailed out to the plaintiff(Lyness, Paul) (Entered: 09/26/2005)
10/06/2005	<u>30</u>	US Marshal Process Receipt and Return for Civil Action. Dr. Carl Singletary served Delivered on 10/5/05 (Edge, Eugenia) (Entered: 10/06/2005)
10/06/2005	<u>31</u>	US Marshal Process Receipt and Return for Civil Action. Staley Galas served Delivered on 10/5/05 (Edge, Eugenia) (Entered: 10/06/2005)
10/28/2005	<u>32</u>	MOTION for Summary Judgment <i>Defendants Galas and Singletary, M.D.</i> by Stanley Galas.(Levin, Boaz) (Entered: 10/28/2005)
10/28/2005	<u>33</u>	MEMORANDUM in Support re <u>32</u> MOTION for Summary Judgment <i>Defendants Galas and Singletary, M.D.</i> filed by Stanley Galas. (Levin, Boaz)

		(Entered: 10/28/2005)
10/28/2005	34	STATEMENT of facts re 32 MOTION for Summary Judgment <i>Defendants Galas and Singletary, M.D.</i> . (Levin, Boaz) (Entered: 10/28/2005)
10/28/2005	35	STATEMENT of facts re 32 MOTION for Summary Judgment <i>Defendants Galas and Singletary, M.D. Statement of Legal Basis for Summary Judgment.</i> (Levin, Boaz) (Entered: 10/28/2005)
10/28/2005	36	AFFIDAVIT in Support re 32 MOTION for Summary Judgment <i>Defendants Galas and Singletary, M.D. Affidavit of Stanley Galas attached Exhibits 1-11.</i> (Attachments: # (1))(Levin, Boaz) Additional attachment(s) added on 10/31/2005 (Edge, Eugenia). Additional attachment(s) added on 10/31/2005 (Edge, Eugenia). (Entered: 10/28/2005)
10/31/2005	37	MOTION to Stay <i>All Further Proceedings Pending the Outcome of Defendants' Motion for Summary Judgment</i> by Stanley Galas.(Levin, Boaz) (Entered: 10/31/2005)
11/22/2005	38	MOTION for Writ of Habeas Corpus ad testificandum by Tony B. Gaskins. (Edge, Eugenia) (Entered: 11/22/2005)
11/22/2005	39	Opposition re 15 Motion for Summary Judgment, 32 MOTION for Summary Judgment <i>Defendants Galas and Singletary, M.D.</i> filed by Tony B. Gaskins. (Edge, Eugenia) Modified on 11/23/2005 to add text (Edge, Eugenia). (Entered: 11/22/2005)
11/22/2005	40	AFFIDAVIT in Support re 39 Opposition to Motion. (Edge, Eugenia) Additional attachment(s) added on 11/22/2005 (Edge, Eugenia). (Entered: 11/22/2005)
11/22/2005	41	MEMORANDUM OF LAW in Support by Tony B. Gaskins to 39 Opposition to Motion. (Edge, Eugenia) (Entered: 11/22/2005)
12/19/2005	42	MOTION for Order for proper pens to file pleadings in this action by Tony B. Gaskins. c/s(Edge, Eugenia) Additional attachment(s) added on 12/21/2005 (Edge, Eugenia). (Entered: 12/20/2005)
12/27/2005	43	Opposition re 42 MOTION for Order to proper pens to file pleadings in this action filed by Susan J Martin, David Nolan, Lisa Mitchell. (Attachments: # 1 Exhibit One# 2 Exhibit Two)(Adams, Jody) (Entered: 12/27/2005)
01/12/2006	44	REPLY to Response to Motion re 42 MOTION for Order to proper pens to file pleadings in this action filed by Tony B. Gaskins. c/s (Attachments: # 1 Attached documents)(Edge, Eugenia) (Entered: 01/13/2006)
07/31/2006	45	Judge Marianne B. Bowler: Electronic ORDER entered finding as moot 37 Motion to Stay; denying 38 Motion for Writ of Habeas Corpus ad testificandum; denying 42 Motion for Order, for the reasons stated in part II(B)(5) of the September 13, 2005 Order in Civil Action No. 05-10630-JLT and as stated in defendants' opposition (Docket Entry # 43); finding as moot 17 Motion to Stay; granting 18 Motion and denying 25 Motion for Hearing. (Bowler, Marianne) (Entered: 07/31/2006)
07/31/2006	45	Judge Marianne B. Bowler : ORDER entered. REPORT AND RECOMMENDATION re 19 MOTION to Stay is DENIED; 15 MOTION to Dismiss <i>and/or Motion for Summary Judgment</i> filed by Tony B. Gaskins is ALLOWED and 32MOTION for Summary Judgment <i>filed by Defendants Galas</i>

		<i>and Singletary, M.D.</i> is ALLOWED. Objections to R&R due by 8/14/2006 (Feeney, Eileen) (Entered: 07/31/2006)
08/01/2006	<u>46</u>	MOTION for Leave of Court to Expand the Record. by Tony B. Gaskins. c/s. Attached document contains personal information. (Edge, Eugenia) (Entered: 08/02/2006)
08/04/2006	<u>47</u>	Judge Marianne B. Bowler: ORDER entered. MEMORANDUM AND ORDER Re: Plaintiff's Motion for leave of court to expand the record, #46 is DENIED. (Feeney, Eileen) (Entered: 08/04/2006)
08/15/2006	<u>48</u>	MOTION for Leave to Appeal by Tony B. Gaskins.(Edge, Eugenia) (Entered: 08/18/2006)
08/15/2006	<u>49</u>	OBJECTION to <u>45</u> Report and Recommendations filed by Tony B. Gaskins. (Edge, Eugenia) (Entered: 08/18/2006)
08/30/2006	<u>50</u>	REPLY TO OBJECTION to <u>45</u> Report and Recommendations <i>Def's.Response to Plft's Written Objections to Recommendations of the Court</i> filed by Stanley Galas. (Levin, Boaz) (Entered: 08/30/2006)
09/28/2006	<u>51</u>	Judge George A. O'Toole Jr.: ORDER entered. ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>45</u> Report and Recommendations,, <u>15</u> Motion to Dismiss filed by Lisa Mitchell,, David Nolan,, Susan J Martin. Action on motion: After review of the original motions and related papers, as well as the present report and the plaintiff's objections to it, I ADOPT the report and ACCEPT its recommendation. Accordingly, the defendants' respective motions for summary judgment (dkt.nos. 15 and 32) are GRANTED, and judgment shall enter in favor of the defendants. (Edge, Eugenia) (Entered: 09/29/2006)
09/28/2006	<u>52</u>	Judge George A. O'Toole Jr.: ORDER entered. JUDGMENT in favor of defendants against plaintiff(Edge, Eugenia) (Entered: 09/29/2006)
10/23/2006	<u>53</u>	MOTION for Leave to Appeal in forma pauperis by Tony B. Gaskins. (Attachments: # <u>1</u> Attached documents)(Edge, Eugenia) (Entered: 10/24/2006)
10/26/2006	<u>54</u>	Remark: Nature of Suit modified to reflect civil rights suit by prisoner (not habeas petition). (PSSA, 1) (Entered: 10/26/2006)
11/30/2006	<u>55</u>	Judge George A. O'Toole Jr.: Electronic ORDER entered granting <u>53</u> Motion for Leave to Appeal in forma pauperis. (O'Toole, George) (Entered: 11/30/2006)
03/30/2007	<u>56</u>	Remark : Leave to appeal in forma pauperis was granted on 11/30/06, petitioner has not filed his notice of appeal. (Edge, Eugenia) Modified on 3/30/2007 (Edge, Eugenia). (Entered: 03/30/2007)
10/22/2007	<u>57</u>	NOTICE OF APPEAL by Tony B. Gaskins NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals.Appeal Record due by 11/12/2007. (Attachments: # <u>1</u> Cover Letter in response to M.Carter# <u>2</u> Letter from M.Carter, Court of Appeals)(Edge, Eugenia) (Entered: 10/24/2007)
10/31/2007	<u>58</u>	MOTION to Strike <u>54</u> Notice of Appeal, <i>as Untimely</i> by Susan J Martin. David Nolan, Lisa Mitchell. (Attachments: # <u>1</u> Exhibit 1)(Brenner, Jody) (Entered: 10/31/2007)

11/02/2007	56	MOTION to Strike 54 Notice of Appeal, by UMass Correctional Health Services.(Bello, James) (Entered: 11/02/2007)
11/28/2007	57	Judge George A. O'Toole Jr.: ORDER entered Allowing petitioner to file Late Notice of Appeal, denying 55 Motion to Strike ; denying 56 Motion to Strike. "Accordingly, the motion for leave to appeal in forma pauperis filed October 23, 2006, is properly construed as a notice of appeal. So construed it was a timely notice. Fed. R. App. P. 4(a)(1)(A). It is SO ORDERED. Receipt of the entry mailed to petitioner at MCI Cedar Junction. (Edge, Eugenia) (Entered: 11/28/2007)